

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

IN RE: )  
 )  
NORTH LILY MINING COMPANY, INC., ) Bankruptcy No. 01-23068-EEB  
a Utah corporation, ) Chapter 11  
EIN: 87-0159350 )  
 )  
Debtor. )

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IN RE: )  
 ) Bankruptcy No. 01-23069-DEC  
XERES TINTIC, LLC, ) Chapter 11  
 )  
EIN: 84-1528808 ) Jointly Administered Under  
 ) Case No. 01-23069  
 )  
Debtor. )

**MOTION FOR AUTHORITY TO MAIL PLAN AND  
DISCLOSURE STATEMENT VIA BULK MAIL**

North Lily Mining Company, Inc. ("North Lily"), by and through its attorneys, Kutner Miller Kearns, P.C., moves the Court pursuant to 11 U.S.C. § 1128 and Federal Rules of Bankruptcy Procedure 2002(b), 2002(m), 3017(d), and 9001(8) for authority for the Debtor to mail its Plan and Disclosure Statement via "bulk" mail, and as grounds therefor states as follows:

1. The Debtors, North Lily and Xeres Tintic, LLC ("Xeres"), filed their Voluntary Petitions under Chapter 11 of the Bankruptcy Code on September 6, 2001. The North Lily case is being jointly administered with the Xeres case.
2. The Debtors are in the business of land holding and related activities.
3. On August 20, 2002, the Debtors filed their Second Amended Plan of Reorganization Dated January 4, 2002 ("Plan") and their Second Amended Disclosure Statement To Accompany Second Amended Plan of Reorganization Dated January 4, 2002 ("Disclosure Statement"). The Debtors are prepared to mail a copy of the Plan and Disclosure Statement to creditors, equity security holders and other interested parties. Due to the large number of shareholders, the Debtors must mail approximately 13,000 copies of the Plan and Disclosure Statement.

4. The Plan and Disclosure Statement weigh approximately 20 ounces. If the Debtor sent these documents via first class mail, it would cost \$1.35 per copy, or \$17,550 for 13,000 copies. If the Debtors sent these documents via "bulk" mail, it would cost \$0.46 per copy, or \$5,980 for 13,000 copies. The difference in cost is approximately \$11,570.

5. The term "bulk mail" refers to quantities of mail prepared for mailing at reduced postage rates. The term "bulk mail" means discounted First-Class Mail and advertising mail (called "Standard Mail" by the Postal Service). The Postal Service uses the terms "bulk" and "presorted" interchangeably.<sup>1</sup>

6. Documents sent via "bulk" rate are estimated to arrive within 1-7 days.<sup>2</sup> Documents sent via First Class mail are estimated to arrive between 1-3 days, with no guarantee on a delivery date. The benefit in sending documents via First Class mail versus "bulk" mail is that documents may arrive a few days earlier via First Class mail, but the U.S. Post Office provides no guarantee.

7. The Debtors are required to send its Plan and Disclosure Statement through the mail. Upon approval of a disclosure statement, the debtor "shall mail to all creditors and equity security holders and the United States Trustee," *inter alia*, a copy of the plan and disclosure statement. Federal Rules of Bankruptcy Procedure 3017(d). The Debtors are required to provide creditors, equity security holders and interested parties notice of certain deadlines through the mail. Notice of the time fixed for filing objections and the hearing to consider confirmation of a chapter 11 plan shall be given not less than 25 days "notice by mail . . . ." Federal Rules of Bankruptcy Procedure 2002(b). Pursuant to 11 U.S.C. § 1128, "[a]fter notice, the court shall hold a hearing on confirmation of a plan." The definition of "mail" is mail via "first class, postage pre-paid." Federal Rules of Bankruptcy Procedure 9001(8). The Court, however, may enter orders "designating the . . . form and manner in which notices shall be sent." Federal Rules of Bankruptcy Procedure 2002(m).

8. The Debtor requests permission from the Court pursuant to Federal Rules of Bankruptcy Procedure 2002(m) to mail its Plan and Disclosure Statement via United States "bulk" mail. The savings in cost will be approximately \$11,750. Further, "bulk" rate mailing will arrive

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<sup>1</sup> All the information contained in this paragraph was obtained from the usps.com website.

<sup>2</sup> This information was obtained through a conversation with a local post office.

within approximately one week of mailing, which is not significantly later than First Class mailing, and will provide creditors, equity holders and interested parties with sufficient time to review the Plan and Disclosure Statement.

9. Based on the foregoing, North Lily believes it is in the best interests of the creditors and the estate to mail its Plan and Disclosure Statement via "bulk" mail.

WHEREFORE, the Debtors pray that the Court make and enter an Order authorizing the Debtors to mail their Plan and Disclosure Statement to all creditors, equity holders and interested parties via United States "bulk" rate mail, and for such further and additional relief as to the Court may appear proper.

Dated: August 21, 2002.

Respectfully submitted,

By: 

Lee M. Kutner, #10966

Jenny M.F. Fujii, #30091

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**ORDER AUTHORIZING THE DEBTOR TO MAIL PLAN AND  
DISCLOSURE STATEMENT VIA BULK MAIL**

THIS MATTER having come before the Court on the Debtors' Motion For Authority to Mail Plan and Disclosure Statement Via Bulk Mail, the Court finding that proper notice was provided, and no timely objections received, the Court having considered the Motion and cause having been shown by the Debtors, does

**ORDER**

That the Debtors may mail the Plan and Disclosure Statement via U.S. "bulk" rate mail to all creditors, equity holders and interested parties.

DONE and entered this \_\_\_\_ day of August, 2002 at Denver, Colorado.

\_\_\_\_\_  
Judge Elizabeth E. Brown  
United States Bankruptcy Judge